

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 1999-303-C – ORDER NO. 1999-740

OCTOBER 22, 1999

IN RE: Application of JATO Operating Two Corporation) ORDER ✓ MR
To Provide Local Exchange Telecommunications Services) GRANTING
Within the State of South Carolina and For Flexible) CERTIFICATE
Regulation.)

This matter comes before the Public Service Commission of South Carolina (the “Commission”) by way of the Application of JATO Operating Two Corporation (“JATO” or the “Company”) requesting a Certificate of Public Convenience and Necessity authorizing it to provide resold local exchange telecommunications services within the State of South Carolina and also requesting that the Commission regulate its local telecommunications services in accordance with the principles and procedures established for flexible regulation in Order No. 98-165 in Docket No. 97-467-C. The Application was filed pursuant to S.C. Code Ann. § 58-9-280 (Supp. 1998) and the Regulations of the Commission.

By letter, the Commission’s Executive Director instructed the Company to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings. JATO complied with this instruction and provided the Commission with proof of publication of the Notice of Filing.

A Petition to Intervene was received from the South Carolina Telephone Coalition (“SCTC”). On September 15, 1999, Counsel for SCTC filed with the Commission a Stipulation in which JATO stipulated that it would seek authority only in non-rural local exchange (“LEC”) service areas of South Carolina and that it would not provide any local service to any customer located in a rural incumbent’s service area, unless and until the Company provided written notice of its intent prior to the date of the intended service. JATO also stipulated that it was not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas. JATO agreed to abide by all State and Federal laws and to participate to the extent that it may be required to do so by the Commission in support of universally available telephone service at affordable rates. The SCTC withdrew its opposition to the granting of a statewide Certificate of Public Convenience and Necessity provided the conditions contained in the Stipulation are met. The Stipulation is approved and attached as Order Exhibit 1.

A hearing was commenced on October 7, 1999, at 2:30 p.m., in the Commission’s Hearing Room. The Honorable Philip T. Bradley, Chairman, presided. JATO was represented by Bonnie D. Shealy, Esquire. Jocelyn D. Green, Staff Counsel, represented the Commission Staff.

Patrick M. Green, Vice President of Carrier Relations for JATO, appeared and testified in support of JATO’s application. As Vice President of Carrier Relations, Mr. Green negotiates interconnection agreements and fosters relationships with other companies where JATO has entered into interconnection agreements as the Company moves into the operations mode. JATO Operating Two Corporation is a wholly-owned subsidiary of JATO Communications Corporation. The parent company has existed for approximately two years. The names of the

two other subsidiaries of the parent company are JATO Operating Corporation and JATO Operating of Virginia. Mr. Green updated his prefiled testimony by stating the Company currently has certification in thirty states total and the Company has entered into approximately thirty interconnection agreements. The record reveals JATO intends initially to provide facilities-based, high speed data services.

JATO is currently in the process of deploying SDSL technology in Denver, Colorado, Albuquerque, New Mexico, and Salt Lake City, Utah. Before the end of the year, the Company expects to deploy in San Antonio, Austin, St. Louis, Oklahoma City, Tulsa, and Kansas City. By the end of the year 2000, the Company expects to begin deployment in fifty markets throughout the United States.

JATO has already entered into an interconnection agreement with BellSouth concerning the services the Company will provide in South Carolina. The Company plans to offer its services in South Carolina primarily to small and medium-sized businesses. In the near future, the Company expects g-light technology will be available which can be used with SDSL technology to the point that voice services will be a practical application. JATO expects to provide voice services within the next six to twelve months. In addition, Mr. Green testified JATO is in the process of collocation in Columbia and Charleston. Further, the Company plans to deploy in Myrtle Beach. The Company is in the process of negotiating an interconnection agreement with GTE for JATO's services in Myrtle Beach.

JATO's customer service department will be available twenty-four hours a day, seven days a week. The Company will perform its own billing services and customers' bills will include a toll free number for customers who have questions concerning their bills. Customers

will be billed on a monthly basis. Initially, customers will have to sign up for a one year, three years or five years fixed service period. After the fixed service period has elapsed, the customer will be able to select a month to month service period. In addition, the Company has spent a great deal of time creating JATO Care. This service provides assistance to the Company's customers.

The Company's management team has over one hundred years combined of telecommunications experience. This experience ranges from telephony, local loop telephony, subscription television, and wireless television. According to Mr. Green, the managerial staff also consists of operations-minded people, technical people, and financial-based individuals. Regarding the Company's financial resources, JATO has raised a little over forty-eight million dollars in private equity. In addition, the Company has a unique partnership with Lucent Technologies who has provided JATO with a fifty million dollar facility which includes both equipment, installation of equipment and maintenance. Further, Mr. Green testified the Company will use print and electronic media to market its services. These services will include local news print, local business publications, television, and direct mail. The Company will do a limited amount of telemarketing to small and medium-sized businesses.

The regulatory contact person for the Company is David A. Bryson. The Commission Staff should contact Daniel J. Alonzi, Controller for JATO, regarding financial information on JATO. The Company is seeking a waiver of 26 S.C. Code Ann. Regs. 103-610 (1976) by requesting the Commission's permission to keep its records in Colorado. In addition, the Company is asking the Commission to waive application of 26 S.C. Code Ann. Regs. 103-631

(1976) and permit JATO's customers' names, addresses, and telephone numbers to be published in the incumbent local exchange carrier's directory.

Mr. Green testified JATO's existence in South Carolina as a telecommunications provider will be in the public interest because the Company will provide an alternative to customers for services that have not been available in the past. In addition, the Company's services will provide an alternative of pricing which should provide an option for the consumer. Finally, Mr. Green testified if the Commission grants JATO a Certificate of Public Convenience and Necessity, the Company will abide by all the rules and regulations of the Commission.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. The Commission finds JATO is organized as a corporation under the laws of the State of Delaware and is authorized to do business as a foreign corporation in the State of South Carolina by the Secretary of State.

2. The Commission finds JATO has the technical, financial, and managerial resources sufficient to provide the services requested. S.C. Code Ann. §58-9-280 (B)(1) (Supp. 1998).

3. The Commission finds JATO will provide services which will meet the service standards of the Commission. S.C. Code Ann. § 58-9-280(B)(2) (Supp. 1998).

4. The Commission finds that JATO's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. §58-9-280(B)(3) (Supp. 1998).

5. The Commission finds that JATO will support universally available telephone service at affordable rates. S.C. Code Ann. § 58-9-280 (B)(4) (Supp. 1998).

6. The Commission finds that the provision of local exchange service by JATO "does not otherwise adversely impact the public interest." S.C. Code Ann. § 58-9-280 (B)(5) (Supp. 1998).

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to JATO to provide competitive intrastate local exchange services in the non-rural local exchange areas of South Carolina. The terms of the Stipulation between JATO and SCTC are approved, and adopted as a portion of this Order. Any proposal to provide such service to rural service areas is subject to the terms of the Stipulation.

2. JATO shall file, prior to offering local exchange services in South Carolina, its final tariff of its local service offerings conforming to all matters discussed with Staff and comporting with South Carolina law in all matters.

3. JATO shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, and tests and repairs. In addition, JATO shall provide to the Commission in writing the name of the authorized representative to be

contacted in connection with general management duties as well as emergencies which occur during non-office hours. JATO shall file with the Commission the names, addresses, and telephone numbers of those representatives within thirty (30) days of receipt of this Order. (Attachment A shall be utilized for the provision of this information to the Commission.) Further, JATO shall promptly notify the Commission in writing if the representatives are replaced.

4. JATO is directed to comply with all Commission regulations unless expressly waived by the Commission.

5. JATO shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

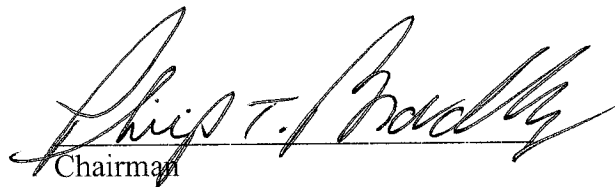
6. By its Application, JATO requested waivers from Commission requirements (1) of publishing a directory and (2) of maintaining records required under the Commission Rules be kept within the State. The Commission grants waivers for these two areas. JATO also requested a waiver of certain reporting requirements not applicable to competitive carriers. The Commission denies the Company waiver of reporting requirements that are required of incumbent LECs. JATO is directed to comply with all Commission regulations unless expressly waived by the Commission.

7. JATO's local telecommunications services shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to NewSouth Communications by Order No. 98-165 in Docket No. 97-467-C.

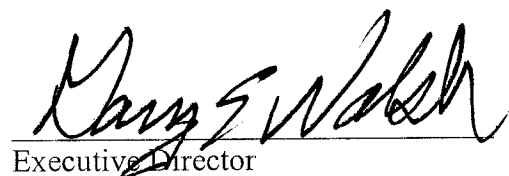
8. In the future, if the Company decides to provide basic local exchange or dial tone services, JATO shall abide by Title 23, Chapter 47, South Carolina Code of Laws Ann., which governs the establishment and implementation of a “Public Safety Communications Center,” which is more commonly known as a “911 system” or “911 service.” Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of the South Carolina, the Commission hereby instructs JATO, when the Company offers basic local exchange or dial tone services, to contact the appropriate authorities regarding 911 service in the counties where the Company will be operating. Contact with the appropriate 911 service authorities is to be made before beginning telephone service in South Carolina. Accompanying this Order is an information packet from the South Carolina Chapter of the National Emergency Number Association (“SC NENA”) with contact information and sample forms. The Company may also obtain information by contacting the E911 Coordinator at the Office of Information Resources of the South Carolina Budget and Control Board. By this Order, and prior to providing basic local exchange or dial tone services within South Carolina, JATO shall contact the 911 Coordinator in each county, as well as the 911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company’s operations as required by the 911 system.

9. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)

DOCKET NO. 1999-303-C - ORDER NO. 1999-740
OCTOBER 22, 1999
ATTACHMENT A

**INFORMATION OF THE AUTHORIZED UTILITY
REPRESENTATIVES FOR INTEREXCHANGE, LOCAL
AND AOS COMPANIES**

PURSUANT TO SOUTH CAROLINA PUBLIC SERVICE COMMISSION
REGULATION 103-612.2.4(b), each utility shall file and maintain with the Commission
the name, title, address, and telephone number of the persons who should be contacted in
connection with Customer Relations/Complaints.

Company Name/DBA Name

Business Address

City, State, Zip Code

Authorized Utility Representative (Please Print or Type)

Telephone Number

Fax Number

E-Mail Address

This form was completed by Signature

If you have any questions, contact the Consumer Services Department at 803-896-5230

BEFORE
THE PUBLIC SERVICE COMMISSION
OF
SOUTH CAROLINA

Docket No. 1999-303-C

Re: Application of JATO Operating Two Corp.)	
for a Certificate of Public Convenience and)	
Necessity to Provide Facilities-Based Local)	STIPULATION
Exchange Telecommunications Services in)	
the State of South Carolina)	
_____)	

The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and JATO Operating Two Corp. ("JATO") hereby enter into the following stipulations.

As a consequence of these stipulations and conditions, the necessity for SCTC's intervention in this matter is avoided and SCTC withdraws its opposition to JATO's Application. SCTC and JATO stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to JATO, provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.

2. JATO stipulates and agrees that any Certificate which may be granted will authorize JATO to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.

3. JATO stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.

4. JATO stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, unless and until JATO provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, JATO acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. JATO stipulates and agrees that if, after JATO gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law, or the Commission institutes a proceeding of its own, then JATO will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. JATO acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service

which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs, and this Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

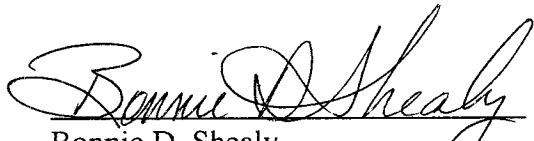
8. JATO agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

9. JATO hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

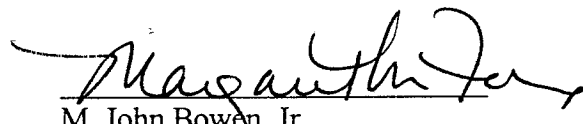
AGREED AND STIPULATED to this 15th day of Sept., 1999.

JATO Operating Two Corp.

South Carolina Telephone Coalition:


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Telephone Coalition

ATTACHMENT A
South Carolina Telephone Coalition Member Companies
for Purposes of Local Service Stipulation

ALLTEL South Carolina, Inc.
Bluffton Telephone Company, Inc.
Chesnee Telephone Company
Chester Telephone Company
Farmers Telephone Cooperative, Inc.
Ft. Mill Telephone Company
Hargray Telephone Company, Inc.
Heath Springs Telephone Company Inc.
Home Telephone Company, Inc.
Lancaster Telephone Company
Lockhart Telephone Company
McClellanville Telephone Company
Norway Telephone Company
Palmetto Rural Telephone Cooperative, Inc.
Piedmont Rural Telephone Cooperative, Inc.
Pond Branch Telephone Company
Ridgeway Telephone Company
Rock Hill Telephone Company
Sandhill Telephone Cooperative, Inc.
St. Stephen Telephone Company
West Carolina Rural Telephone Cooperative, Inc.
Williston Telephone Company

BEFORE
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OF
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Docket No. 1999-303-C

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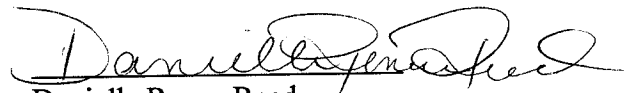
CERTIFICATE OF SERVICE

I, Danielle Renee Reed do hereby certify that this day I caused to have served the foregoing Stipulation to the below named party of record, by having same delivered as indicated, this 15th day of September, 1999, and addressed as follows:

U.S. MAIL - FIRST CLASS POSTAGE AFFIXED:

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